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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,262	07/18/2003	Frederick S. M. Herz	REFH-0155	3489

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05/01/2008

EXAMINER

WHIPPLE, BRIAN P

ART UNIT	PAPER NUMBER
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2152

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/623,262

Applicant(s)

HERZ ET AL.

Examiner

Brian P. Whipple

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-5 are pending in this application and presented for examination.

Response to Arguments

2. Applicant's arguments, see page 7, filed 3/24/08, with respect to the rejection(s) of claim(s) 1-5 under the prior art have been fully considered and are persuasive. Examiner did not properly treat the priority claim and therefore the prior art relied upon is invalid. The priority claim to 60/396,560 is now recognized by Examiner. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the prior art discussed below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 5, line 2, the phrase "the data storage servers" lacks antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smirnov et al. (Smirnov), U.S. Publication No. 2003/0097383 A1, in view of Ho, U.S. Patent No. 6,148,342, in view of Kesarwani et al. (Kesarwani), U.S. Patent No. 7,213,258 B1, and further in view of Nordman et al. (Nordman), U.S. Publication No. 2002/0174364 A1.

7. As to claim 1, Smirnov discloses a method (the body of the claim does not rely upon the preamble and therefore, the preamble has not been given patentable weight) comprising:

a person having personal information for storage ([0152], ln. 1-2 and 6-10; [0351], ln. 1-2);

registering the person with a pseudonymous proxy server as a user type with associated pseudonym ([0128]; [0132]); and

the pseudonymous proxy server providing the person's associated pseudonym ([0128]; [0132]).

Smirnov is silent on assigning a unique identification (UID) to a person;
set of rules that control the person's access to stored data;
providing a service provider identifier to the person that identifies the person to a
service provider; and

the pseudonymous proxy server providing the service provider identifier with a
random factor.

However, Ho discloses assigning a unique identification (UID) to a person (Col. 3, ln. 4-13); and

providing a service provider identifier to the person that identifies the person to a
service provider (Col. 3, ln. 4-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov by assigning a unique identification (UID) to a person as taught by Ho in order to uniquely identify individual persons, such as patients, in order to obtain the proper data, such as medical records for a specific patient.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov by providing a service provider identifier to

the person that identifies the person to a service provider in order to enable a service provider to obtain information on a relevant subject.

Smirnov and Ho are silent on set of rules that control the person's access to stored data;

the pseudonymous proxy server providing the service provider identifier with a random factor;

transmitting a message from the person to the service provider through the server, wherein the server receives the message and, based on said set of rules that control the person's access to stored data, validates a relationship between the person and the service provider and transmits the message to the service provider if the relationship between the person and the service provider is validated; and

said server authorizing the person to view the private data owner's actual private data based on said set of rules that control the person's access to stored data of said private data owner.

However, Kesarwani discloses a set of rules that control a person's access to stored data (Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38);

transmitting a message from the person to the service provider through the server (Fig. 3; Col. 6, ln. 29-38), wherein the server receives the message and, based on said set of rules that control the person's access to stored data, validates a relationship between the

person and the service provider and transmits the message to the service provider if the relationship between the person and the service provider is validated (Fig. 3; Col. 6, ln. 29-38); and

said server authorizing the person to view the private data owner's actual private data based on said set of rules that control the person's access to stored data of said private data owner (Fig. 3; Col. 6, ln. 29-38)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov and Ho by including a set of rules that control a person's access to stored data and validating relationships between a person and a service provider based on the access rules in order to determine if access should be provided to private data of another user as taught by Kesarwani in order to prevent unauthorized access to data, such as information related to a person or persons other than the user accessing a database.

Smirnov, Ho, and Kesarwani are silent on the pseudonymous proxy server providing the service provider identifier with a random factor.

However, Nordman discloses a pseudonymous proxy server providing a service provider identifier with a random factor ([0013], ln. 2-6; [0094]).

Applying a random factor to the generated pseudonym is a logical extension of Smirnov, Ho, and Kesarwani. The intention of a pseudonym is to increase the privacy of a

user. Therefore, assigning a pseudonym in a static or predictable manner would lessen the effectiveness of the pseudonym's intended use. Therefore, randomly assigning the pseudonym would increase the likelihood that a user's privacy is protected, as it would be more difficult to relate the pseudonym to the user absent a predictable assignment technique.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov, Ho, and Kesarwani by having the pseudonymous proxy server provide the service provider identifier with a random factor as taught by Nordman in order to gain the above-mentioned benefits.

8. As to claim 5, Smirnov, Ho, Kesarwani, and Nordman disclose the invention substantially as in parent claim 1, including the pseudonymous personal information is the person's medical records (Smirnov: [0152]) and the data storage servers are controlled by respective medical service providers (Ho: Col. 2, ln. 57 – Col. 3, ln. 4), where said person and said respective medical service providers are permitted access to said person's medical records based on said set of rules (Kesarwani: Fig 3; Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38), and wherein a transfer of said patient's medical records from one medical service provider to another medical service provider includes the replacing of the another medical service provider's name with a pseudonym (Ho: Abstract; Kesarwani: Fig 3; Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38), pseudonymizing the person's medical records in accordance

with the another medical service provider's access rights (Smirnov: [0128]; [0132]; [0152];
Ho: Col. 2, ln. 57 – Col. 3, ln. 13; Kesarwani: Fig 3; Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-
38), and providing the access rights to the another medical service provider based on
authorization to the person's medical records as granted by the person (Smirnov: [0128];
[0132]; [0152]; Ho: Col. 2, ln. 57 – Col. 3, ln. 13; Kesarwani: Fig 3; Col. 4, ln. 51-54 and 59-67;
Col. 6, ln. 29-38).

9. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smirnov,
Ho, Kesarwani, and Nordman as applied to claim 1 above, and further in view of what was
well known in the art at the time of the invention.

10. As to claim 2, Smirnov, Ho, Kesarwani, and Nordman disclose the invention
substantially as in parent claim 1, including the pseudonymous proxy server controls unique
identifications (UIDs) (Ho: Col. 3, ln. 4-13) and sets of rules for respective persons among
multiple servers (Kesarwani: Col. 4, ln. 51-54 and 59-67; Col. 6, ln. 29-38).

Smirnov, Ho, Kesarwani, and Nordman are silent on a hub and spoke network
configuration.

However, Official Notice is taken (see MPEP 2144.03) that a hub and spoke network
topology is extremely well known in the art. Hub and spoke networks are a desirable

alternative to ring networks in that network failure is reduced through decentralizing whereas in a ring network a single point of failure could bring down a network.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov, Ho, Kesarwani, and Nordman by using a hub and spoke network configuration as is extremely well known in the art in order to reduce the likelihood of network failure.

11. As to claim 3, the claim is rejected for the same reasons as claim 2 above.

12. As to claim 4, Smirnov, Ho, Kesarwani, and Nordman disclose the invention substantially as in parent claim 1, but are silent on the person encryption said pseudonym.

However, Official Notice is taken (see MPEP 2144.03) that encryption is extremely well known in the art. Encryption adds an extra layer of security, which is all the more important in teachings geared toward pseudonyms to protect data, such as in Smirnov, Ho, Kesarwani, and Nordman.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Smirnov, Ho, Kesarwani, and Nordman by having a person encrypt a pseudonym as is extremely well known in the art in order to add an extra layer of security to the protected data.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Whipple whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (9:30 AM to 6:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Brian P. Whipple
/B. P. W./
Examiner, Art Unit 2152
4/26/08

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Supervisory Patent Examiner, Art Unit 2152